

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
HERNANDEZ, et al., : Docket #18cv2843
 : 1:18-cv-02843-VSB-KNF
 :
 Plaintiffs, :
 :
 - against - :
 :
 MANHATTAN LAUNDRY CENTERS INC., : New York, New York
 et al., : May 8, 2019
 :
 Defendants. :
 :
 ----- : INQUEST HEARING

PROCEEDINGS BEFORE
THE HONORABLE KEVIN N. FOX
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: MICHAEL FAILLACE & ASSOCIATES, PC
BY: DANIEL TANNENBAUM, ESQ.
60 East 42nd Street, Suite 4510
New York, New York 10165

For Defendants: PETER Y. LEE, ESQ.
60 East 42nd Street, Suite 1101
New York, New York 10165

Interpreter: MARCIA GOTLER

Transcription Service: Carole Ludwig, *Transcription Services*
141 East Third Street #3E
New York, New York 10009
Phone: (212) 420-0771
Fax: (212) 420-6007

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

INDEXE X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>	<u>Court</u>
Sofia Hernandez Juarez	5	8	18		

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
<u>Defendant</u>				
D1	Cancelled check dated 3/15/18	11	20	
D2	Cancelled check dated 3/23/18	11	20	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

3

THE CLERK: Hernandez Juarez versus Manhattan Laundry Centers Inc., et al., case number 18cv2843. Counsel, please state your appearance and introduce the parties with you today.

MR. DANIEL TANNENBAUM: Daniel Tannenbaum for plaintiff Hernandez, to my left is Ms. Sofia Hernandez Juarez and Marcia Gotler is the interpreter.

THE COURT: Good morning to all of you.

MR. PETER LEE: Good morning, Your Honor, Peter Lee, counsel for defendants Here to Clean Inc. and Mr. Eung Ho Kim, K-I-M.

THE COURT: Good morning.

THE CLERK: Ms. Gotler, raise your right hand. Do you solemnly swear that you will justly, truly, fairly and impartially act as an interpreter in this issue now before the Court?

THE INTERPRETER: I do.

THE CLERK: All right, would you state your name for the record, please.

THE INTERPRETER: Marcia Gotler.

THE CLERK: Thank you.

THE COURT: Excuse me, would you pull the microphone close to you and repeat your name so that everything you say can be captured accurately on the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

4

record.

THE INTEPRETER: Marcia Gotler.

THE COURT: Would you spell your last name slowly, please.

THE INTERPRETER: G-O-T-L-E-R.

THE COURT: Thank you.

THE INTERPRETER: Thank you, Your Honor.

THE COURT: You're welcome. We're assembled for an inquest hearing, a judgment by default has been entered and the matter has been referred to me to determine the amount of damages, if any, that should be awarded to the plaintiff and to issue a recommendation with a report to the assigned District Judge on that matter. Are both parties ready to proceed?

MR. TANNENBAUM: Yes, Your Honor.

MR. LEE: Yes, Your Honor.

THE COURT: All right, we'll begin with plaintiff.

MR. TANNENBAUM: Should the plaintiff take the stand?

THE COURT: If you intend to have her give testimony.

MR. TANNENBAUM: Only if the affidavits and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

5

other papers are not sufficient to establish her case
(inaudible).

THE COURT: Well that remains to be seen.
We're here to determine, among other things, what
information the parties need to communicate to me to
aid me in preparing a report and recommendation to the
assigned District Judge. I'm aware that the plaintiff
has made written submissions, as has the, one of the
defendants, an individual. I am here to receive such
other information, if any, as the parties want to provide
to me.

MR. TANNENBAUM: Okay, so I will call the
plaintiff to the stand, please.

WHEREUPON,

S O F I A H E R N A N D E Z J U A R E Z,
was duly sworn or affirmed to testify as follows:

THE CLERK: Please state your full name for
the record and spell your last name slowly.

MS. HERNANDEZ: Sofia Hernandez Suarez, S-O-F-
I-A H-E-R-N-A-N-D-E-Z J-U-A-R-E-Z.

THE COURT: You may be seated.

THE INTERPRETER: Your Honor, is it all right
if the interpreter stands here, we're kind of blocked,
or should I stand on the other side.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

6

THE COURT: You may stand wherever it's most convenient for you.

THE INTERPRETER: All right, I'll stay here.

THE COURT: Mr. Tannenbaum, would you stand at the podium, you may inquire of the witness.

DIRECT EXAMINATION BY

MR. TANNENBAUM:

Q: Good morning, Ms. Juarez, did you file this lawsuit?

A: Yes.

Q: Did you work for the defendants named in the lawsuit?

A: Yes.

Q: What type of business did you work in?

A: A laundry.

Q: And what was your job in that business?

A: Folding clothes.

Q: What were the hours that you worked while working in the business?

A: On Mondays and Tuesdays I would work from 8 until 6:30, and then on Wednesday through Friday I worked from 8 to 6.

Q: And how much were you paid when you were working?

1 HERNANDEZ JUAREZ - DIRECT (By Tannenbaum) 7

2 A: Well when I started working in 2011 I was being
3 paid \$280, and that continued until 2012. After that I
4 would get a \$20 raise every year. And then in March of
5 2018, that's when they changed things and started paying
6 me by check. And also a little bit of cash, but on the
7 check it says something which was not what they were
8 telling me.

9 Q: Prior to 2018, how were you paid?

10 A: They were still paying in cash.

11 Q: As of March, 2018, were you also working five
12 days a week or did it decrease?

13 A: No, they took away one of my days and the check
14 would say \$240, but the woman would only give me \$156 in
15 cash. I don't know why they did that.

16 Q: And one final question, the hours that you said
17 that you worked, were they always exactly those hours?

18 A: Well it was very unusual when I worked more
19 hours, I can't recall any specific dates, and then there
20 were some times when they would give us a half hour.

21 MR. TANNENBAUM: Okay, nothing further, Your
22 Honor.

23 THE COURT: Mr. Lee, you may inquire of the
24 witness.

25 MR. LEE: Excuse me, Your Honor?

1 HERNANDEZ JUAREZ - DIRECT (By Tannenbaum) 8

2 THE COURT: You may inquire of the witness.

3 MR. LEE: Thank you, Your Honor.

4 CROSS EXAMINATION BY

5 MR. LEE:

6 Q: Would you prefer Ms. Juarez or Ms. Hernandez?

7 A: Hernandez.

8 Q: Good morning, Ms. Hernandez.

9 A: Good morning.

10 Q: You testified earlier that you worked for all
11 the defendants that you sued in this lawsuit, is that
12 correct?

13 A: Yes.

14 Q: You have named many defendants in this
15 lawsuit, ma'am, could you please identify exactly
16 which defendant you worked for?

17 A: Okay, I don't know his last name, but it was
18 for Mr. Kim, and the lady never told us what her name
19 was, we just called her Ashima (phonetic).

20 Q: Ashima is woman in Korean.

21 THE COURT: Sir, you're here to ask questions,
22 not to make statements.

23 Q: When was your last day of work, Ms. Hernandez?

24 A: My last day of work was March 22, 2018.

25 Q: And the store was destroyed as the result of a

1 HERNANDEZ JUAREZ - CROSS (By Lee) 9

2 fire, is that correct?

3 MR. TANNENBAUM: Objection, Your Honor.

4 THE COURT: The objection is sustained.

5 Q: Were you fired?

6 A: No.

7 Q: All right, are you aware of some of the
8 documents that you signed and filed in this case,
9 ma'am?

10 A: Yes.

11 Q: And I believe you testified earlier that you
12 started out at \$280 per week, is that correct?

13 A: Yes.

14 Q: And it went up \$20 a week every year
15 thereafter, is that correct?

16 MR. TANNENBAUM: Objection, I believe she
17 testified (inaudible) a year.

18 THE COURT: The objection is overruled.

19 Q: Excuse me?

20 THE COURT: The objection is overruled, you
21 may answer the question.

22 A: Shall I answer it?

23 THE COURT: Yes, please.

24 Q: And you used the word --

25 THE COURT: Just a moment, please.

1 HERNANDEZ JUAREZ - CROSS (By Lee) 10

2 A: Can you repeat what you said?

3 Q: You testified earlier that you were paid \$280
4 per week as a salary, starting in 2011, is that
5 correct?

6 A: Yes.

7 Q: And \$300 per week as a salary the following
8 year, is that correct?

9 A: Yes, from 2011 to 2012 I was being paid \$280.
10 After that I started getting \$20 more every year.

11 Q: But this was a salary, is that correct?

12 A: Yes.

13 MR. LEE: Your Honor, may I show the witness
14 to exhibits?

15 THE COURT: Have you shared the exhibits with
16 your adversary?

17 MR. LEE: Yes, they're actually e-filed with
18 the Court, Your Honor. Respectfully, Your Honor, I'm
19 referring to ECF document 53. There are two cancelled
20 checks attached to that affidavit of one Mr. Eung Ho
21 Kim, Your Honor. May I approach the witness, Your
22 Honor?

23 THE COURT: Yes.

24 Q: Ms. Hernandez, I've shown you --

25 THE COURT: Just a moment, is the item marked?

1 HERNANDEZ JUAREZ - CROSS (By Lee) 11

2 MR. LEE: No, it's not, Your Honor. Actually
3 each page is labeled Exhibit A and the other one is
4 labeled Exhibit B, but that was part of the e-filed
5 document, Your Honor.

6 THE COURT: You need to mark the exhibits,
7 both parties, being used during the proceeding. What
8 is the exhibit number that you have displayed to the
9 witness?

10 (Defendant's Exhibits D1 and D2 marked for
11 identification.)

12 MR. LEE: Your Honor, I have shown the witness
13 Exhibit D1, which is a cancelled check number 2002.

14 THE COURT: Just a moment, the witness can
15 identify the exhibit, if possible.

16 Q: Ms. Hernandez, do you see a document labeled
17 with a blue sticker that says D1 in front of you?

18 A: Yes.

19 Q: Do you recognize this document?

20 A: Yes.

21 Q: And is that your signature on the back of the
22 check?

23 A: Yes.

24 Q: Now can you please look at the other document,
25 Ms. Hernandez, it is labeled Exhibit D2? Do you

1 HERNANDEZ JUAREZ - CROSS (By Lee) 12

2 recognize that document, ma'am?

3 A: Yes.

4 Q: And are these two documents, do they reflect
5 the checks that you received in connection with your
6 employment?

7 A: Yes, those are two checks, the last ones.

8 THE COURT: Ms. Hernandez, let me direct you
9 to the item that has been marked as Defendant's
10 Exhibit D1 for identification, you indicated that you
11 recognized the item marked as Defendant's Exhibit D1,
12 what do you recognize it to be?

13 A: It's a check.

14 THE COURT: Is the check made out to anyone?

15 A: My name and the name of the company, the
16 laundry. I wanted to ask, may I explain this because
17 it says \$240 but he only gave me \$156 out of this
18 check.

19 THE COURT: Ms. Hernandez, please wait until a
20 question is put to you.

21 A: Okay.

22 THE COURT: You are here to answer to answer
23 questions, not to ask questions.

24 A: Okay.

25 THE COURT: Let me direct you back to

1 HERNANDEZ JUAREZ - CROSS (By Lee) 13

2 Defendant's Exhibit D1, the check you say is made out
3 to you, is there a date on the check?

4 A: Yes.

5 THE COURT: What is the date, please?

6 A: 3/15/2018.

7 THE COURT: Let me direct your attention to
8 the item marked as Defendant's Exhibit D2, which you
9 also indicated that you recognized.

10 A: Yes.

11 THE COURT: What do you recognize Defendant's
12 Exhibit D2 to be?

13 A: I'm sorry?

14 THE COURT: When you indicated that you
15 recognized Defendant's Exhibit D2, what do you
16 recognize Defendant's Exhibit D2 to be?

17 A: A check.

18 THE COURT: Is the check made out to anyone?

19 A: Sofia Hernandez.

20 THE COURT: Is the check dated?

21 A: Yes.

22 THE COURT: What date appears on the check,
23 please?

24 A: 3/23/18.

25 THE COURT: Thank you. You may resume your

1 HERNANDEZ JUAREZ - CROSS (By Lee) 14

2 cross examination of the witness.

3 MR. LEE: Thank you, Your Honor.

4 Q: Ms. Hernandez, can you explain why these two
5 checks are for different amounts?

6 A: I don't know why. That's just how they were,
7 because when I started working there, I worked by the
8 day, by the week.

9 Q: Looking at Exhibit D2, Ms. Hernandez, do you
10 see the notation 37.5 hours?

11 A: Yes.

12 Q: And that would be less than 40, correct, Ms.
13 Hernandez?

14 A: Yes.

15 Q: And I believe you've also said that you were
16 paid \$400 per week as a salary in year 2018, is that
17 correct?

18 A: Yes.

19 Q: Shouldn't both these checks from consecutive
20 weeks be around the same amount if you were on a fixed
21 salary, ma'am?

22 A: This was the reason why I quit, because this
23 was the change that they made.

24 Q: Ms. Hernandez, are you sure you have no
25 recollection of being paid \$12 an hour?

1	HERNANDEZ JUAREZ - CROSS (By Lee)	15
---	-----------------------------------	----

2 A: I don't know whether we're only talking about
3 the checks or ever since I started there.

4 | Q: Well let's limit it to those two checks?

5	A: Okay.
---	----------

6 Q: Are you sure you were not paid hourly, ma'am?

7 | A: Yes, from those two checks, yes.

8 Q: So your statements that you filed with this
9 Court on August 10, 2018, that you were paid a fixed
10 salary of \$400 per week, is not entirely accurate, is
11 that correct?

12 A: How can I put this, well they were not paying
13 me what it says here either.

14 Q: Elsewhere in the document that you signed and
15 filed with the Court, ma'am, you've stated that you
16 worked typically 51 hours per week, do you recall that
17 statement, ma'am?

18	A: Yes.
----	---------

19 Q: In fact, paragraph 12 of the document number
20 41 filed August 10, 2018, you stated that up to March
21 14, 2018, you worked 51 hours per week typically, is
22 that correct?

23	A: Yes.
----	---------

24 Q: Exhibit D1, ma'am, would correspond with that
25 time period until on or about March 14, 2018, is that

1 HERNANDEZ JUAREZ - CROSS (By Lee) 16

2 correct?

3 A: Yes.

4 Q: If you worked 51 hours that week, wouldn't D1
5 be for a bigger amount?

6 A: Yes, but that's not what it says here.

7 Q: Ma'am, you did cash both checks, didn't you?

8 A: Yes.

9 Q: Now in your statements I referred to earlier,
10 your statement about 51 hours per week, are you
11 including holidays, sick time that you've taken,
12 everything?

13 A: No.

14 Q: You're a single mother, is that correct, Ms.
15 Hernandez?

16 MR. TANNENBAUM: Objection.

17 THE COURT: The objection is sustained.

18 Q: Ma'am, you don't recall having the week of
19 Thanksgiving, 2017, off, as well as Thanksgiving,
20 2018, and Christmas, 2018, and Christmas, 2017?

21 MR. TANNENBAUM: Objection.

22 THE COURT: The objection is overruled.

23 A: Yes.

24 Q: Ma'am, do you recall getting paid for your
25 time with the kids?

1 HERNANDEZ JUAREZ - CROSS (By Lee) 17

2 A: What? I don't understand the question.

3 Q: Let me rephrase that, Ms. Hernandez. Mr. Kim
4 paid you for your time off with kids, do you recall
5 that?

6 MR. TANNENBAUM: Objection.

7 THE COURT: The objection is overruled.

8 A: No, he never paid me for that.

9 Q: Before March -- strike that, before these
10 checks in front of your, Ms. Hernandez, you testified
11 that you were paid in cash, is that correct?

12 A: Yes.

13 Q: You don't recall signing receipts for each and
14 every cash payment weekly?

15 A: No, I was not signing anything.

16 Q: Ms. Hernandez, assuming you were paid a
17 salary, like you stated in your documents. Do you have
18 W-2s showing the salary that you've been paid?

19 A: No.

20 Q: Did you report these salaries to the
21 authorities?

22 MR. TANNENBAUM: Objection.

23 THE COURT: The objection is sustained.

24 MR. LEE: I have no further questions, Your
25 Honor.

1 HERNANDEZ JUAREZ - CROSS (By Lee) 18

2 THE COURT: Any redirect examination?

3 REDIRECT EXAMINATION BY

4 MR. TANNENBAUM:

5 Q: Ms. Hernandez, did you testify that the nature
6 of payment changed in March of 2018?

7 A: Yes.

8 MR. TANNENBAUM: Nothing further, Your Honor.

9 THE COURT: Ms. Hernandez, you may step down.
10 Does the plaintiff wish to present any other evidence?

11 MR. TANNENBAUM: Aside from the submissions,
12 nothing further.

13 THE COURT: Mr. Lee, are your clients
14 presenting any evidence?

15 MR. LEE: Your Honor, I informed your clerk
16 that I had digital photographs of the extent of the
17 fire, but it got held up in security, Your Honor. I
18 wanted to show that to the witness, but it was my
19 mistake and actually I should have printed them, but
20 it is what it is, Your Honor.

21 THE COURT: Do you mean to indicate you do not
22 have evidence you want to offer at this time?

23 MR. LEE: At this time, no, Your Honor, I have
24 nothing further.

25 THE COURT: Does either party want to submit a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

19

post hearing memorandum?

MR. TANNENBAUM: Your Honor, we would submit a memorandum taking into account the days off that Ms. Hernandez stated that she had, Thanksgiving and Christmas.

THE COURT: Do you intend to make argument through the memorandum based upon the testimony elicited during today's proceeding?

MR. TANNENBAUM: I don't know, but we would provide the damage amount based on those days, presumption on those days, it should be about a week's time deducted from the total damage amount.

THE COURT: Do the defendants wish to submit a post hearing memorandum?

MR. LEE: Yes, Your Honor.

THE COURT: Is three weeks sufficient time for the parties to submit memoranda?

MR. LEE: It's fine for the defendants, Your Honor.

MR. TANNENBAUM: Yes, Your Honor.

THE COURT: On or before May 29, 2019, any party may submit a post hearing memorandum to the Court. Would the parties also provide the Court with a transcript of the record made during this proceeding

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDING

20

on or before the 29th day of May, 2019. Is there
anything else that we need to address this afternoon?

MR. TANNENBAUM: No, Your Honor.

MR. LEE: No, Your Honor.

THE COURT: Thank you. Good day. Mr. Lee,
you had the witness identify two exhibits, Defendant's
Exhibit D1 and Exhibit D2, but did not move them into
evidence, was that purposeful?

MR. LEE: No, Your Honor. In the heat of the
moment I overlooked it, Your Honor, I'd like to move
them into evidence, Your Honor.

THE COURT: Any objection on behalf of the
plaintiff?

MR. TANNENBAUM: No objection, Your Honor.

THE COURT: The items marked previously as
Defendant's Exhibit D1 and Defendant's Exhibit D2,
received in evidence. Thank you, good day.

(Defendant's Exhibits D1 and D2 received in
evidence.)

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, Hernandez, et al. versus Manhattan Laundry Centers Inc., et al., Docket #18cv2843, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature

Carole Ludwig

Date: June 3, 2019